

**CAPACITY DEVELOPMENT FOR NEW PUBLIC WATER SUPPLY SYSTEMS  
FINAL RULE EFFECTIVE SEPTEMBER 9, 1999**

**TITLE 327 WATER POLLUTION CONTROL BOARD  
LSA Document #98-63 (F)**

**DIGEST**

Adds 327 IAC 8-3-1.1 to require new public water supply systems to demonstrate technical, financial, and managerial capacity prior to applying for a construction permit. Adds 327 IAC 8-3.6 to require new public water supply systems to demonstrate technical, financial, and managerial capacity prior to applying for a construction permit. Effective 30 days after filing with the secretary of state.

**HISTORY**

First Notice of Comment Period: April 1, 1998, Indiana Register (21 IR 2608).  
Second Notice of Comment Period and Notice of First Hearing: January 1, 1999, Indiana Register (22 IR 1262).  
Date of First Hearing: February 10, 1999.  
Notice of Second Hearing: April 1, 1999, Indiana Register.  
Date of Second Hearing and Final Adoption: April 14, 1999.  
Approved by Attorney General: July 20, 1999  
Approved by Governor: August 5, 1999  
Filed with Secretary of State: August 10, 1999, 8:54 a.m.

**327 IAC 8-3-1.1  
327 IAC 8-3.6**

SECTION 1. 327 IAC 8-3-1.1 IS ADDED TO READ AS FOLLOWS:

**327 IAC 8-3-1.1 Proof of capacity**

Authority: IC 13-13-5; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-21-3  
Affected: IC 13-18-16

**Sec. 1.1. (a) A new community public water supply system and a new nontransient noncommunity public water supply system that will commence operation after October 1, 1999, must fulfill the requirements of 327 IAC 8-3.6 prior to making a submission to the commissioner for a permit to construct as described in sections 2 and 3 of this rule.**

**(b) The commissioner shall deny and return to the applicant a construction permit application, plans, or specifications that are submitted for review without the proof of public water supply system technical, financial, and managerial capacity as required by 327 IAC 8-3.6.** (*Water Pollution Control Board; 327 IAC 8-3-1.1; filed Aug 10, 1999, 8:54 a.m.: 22 IR 3678*)

SECTION 2. 327 IAC 8-3.6 IS ADDED TO READ AS FOLLOWS:

**Rule 3.6. Demonstration of New Public Water Supply System Capacity**

**327 IAC 8-3.6-1 Definitions**

Authority: IC 13-13-5; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-21-3  
Affected: IC 13-11-2; IC 13-18-16

**Sec. 1. In addition to the applicable definitions contained in IC 13-11-2, 327 IAC 8-3.2-1, and 327 IAC 8-3.4-1, the following definitions apply throughout this rule:**

**(1) "Financial capacity" means the ability of a public water supply system to acquire and manage sufficient financial resources to allow the system to achieve and maintain compliance with this article.**

**(2) "Managerial capacity" means the ability of a public water supply system to conduct its affairs in a manner enabling the system to achieve and maintain compliance with this article.**

**(3) "New public water supply system" means the following:**

**(A) A community water supply system or nontransient noncommunity water supply system that is newly constructed and will commence operation after October 1,**

**1999.**

**(B) A community water supply system or nontransient noncommunity water supply system that has not previously met the definition of a public water supply system but will have expanded infrastructure after October 1, 1999, to meet the definition of a public water supply system.**

**(C) A community water supply system, nontransient noncommunity water supply system, or transient water supply system that currently meets the definition of a public water supply system and expands its infrastructure after October 1, 1999, if such expansion results in a change in the classification of the system to a community water supply system or a nontransient noncommunity water supply system.**

**(4) "Technical capacity" means the physical and operational ability of a public water supply system to meet the requirements of this article.**

*(Water Pollution Control Board; 327 IAC 8-3.6-1; filed Aug 10, 1999, 8:54 a.m.; 22 IR 3678)*

### **327 IAC 8-3.6-2 Applicability**

**Authority: IC 13-13-5; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-21-3**

**Affected: IC 13-18-16**

**Sec. 2. (a) This rule applies to a new public water supply system that commences operation after October 1, 1999.**

**(b) This rule does not apply to a public water supply system in operation prior to October 1, 1999, except as provided in section 1(3)(C) of this rule.** *(Water Pollution Control Board; 327 IAC 8-3.6-2; filed Aug 10, 1999, 8:54 a.m.; 22 IR 3679)*

### **327 IAC 8-3.6-3 Water system management plan submission**

**Authority: IC 13-13-5; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-21-3**

**Affected: IC 13-18-16**

**Sec. 3. (a) A new public water supply system shall submit to the commissioner a water system management plan that demonstrates the capacity of the proposed public water supply system. The plan shall include, at a minimum, an assessment of the following:**

- (1) Technical capacity according to section 4 of this rule.**
- (2) Financial capacity according to section 5 of this rule.**
- (3) Managerial capacity according to section 6 of this rule.**

**(b) Four (4) copies of the water system management plan shall be submitted to the commissioner in advance of the public water supply system's intended submission to the commissioner of application for a construction permit with sufficiency to allow the commissioner one hundred twenty (120) days for review of the water system management plan.**

**(c) Information requested by section 4, 5, or 6 of this rule that the applicant cannot provide shall be:**

- (1) identified as being not applicable or not available; and**
- (2) accompanied by an explanation of its absence.**

**(d) A written request by the commissioner for additional information from the applicant, due to an incomplete water system management plan, shall extend the one hundred twenty (120) days allowed for the commissioner's review.** *(Water Pollution Control Board; 327 IAC 8-3.6-3; filed Aug 10, 1999, 8:54 a.m.; 22 IR 3679)*

### **327 IAC 8-3.6-4 Technical capacity of a new public water supply system**

**Authority: IC 13-13-5; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-21-3**

**Affected: IC 13-18-16; IC 25-31**

**Sec. 4. (a) A water system management plan shall provide the following technical capacity information:**

**(1) Details of the public water supply system that include the following:**

**(A) A description of the type of system, including:**

- (i) whether it is a community public water supply system or a nontransient noncommunity public water supply system and the basis for determining the system type; and**
- (ii) the population to be served.**

- (B) A description of the planned service area, including:
  - (i) the anticipated growth for the next twenty (20) years; and
  - (ii) the plans to provide for the demand of the anticipated growth.
- (C) A description of the public water supply system by county, section, township, and range.
- (D) A site plan that includes the location of the following, as applicable:
  - (i) Wells.
  - (ii) Surface water intakes.
  - (iii) Treatment facilities.
  - (iv) Storage facilities.
  - (v) Pumping facilities.
  - (vi) Connections to another public water supply system.
  - (vii) Other applicable facilities.
- (E) A description, design basis, and anticipated useful life for treatment and transmission facilities, including the following:
  - (i) Treatment plants.
  - (ii) Pipes.
  - (iii) Pumping stations.
  - (iv) Storage facilities.
- (F) The identification of interconnections with other systems.
- (G) A description and design basis of the fire protection demand on the system.
- (H) A description of a plan for metering water production by source and water use by consumers.
- (I) A description of plans to manage waste generated by the treatment processes of the public water supply system.
- (J) A description of the highest flood elevation at the site of sources and treatment facilities, if the site is within the one hundred (100) year frequency flood plain.
- (2) Details of an assessment of the water supply source adequacy that include the following:
  - (A) A site map for each water supply source that must be drawn to scale with the scale disclosed on the map.
  - (B) A narrative describing each source, and a description of land uses within a three thousand (3,000) foot radius of each water supply source.
  - (C) The design basis for system demands, including:
    - (i) average daily; and
    - (ii) peak daily;
 consumer demand according to 327 IAC 8-3.3-2.
  - (D) An analysis of a proposed source to reliably meet consumer demand.
  - (E) A geological or hydrogeological characterization of the source of the drinking water supply.
  - (F) A summary of a source water quality analysis that includes the applicable primary and secondary drinking water standards.
  - (G) The proposed activities to protect source water.
- (3) A public water supply system that proposes to purchase water from another public water supply system must provide documentation of a planned purchase agreement with the other public water supply system.
- (4) A method to meet the requirements of the following public drinking water rules:
  - (A) 327 IAC 8-1 concerning drinking water direct additives and indirect additives.
  - (B) 327 IAC 8-2-8.5 concerning filtration and disinfection.
  - (C) 327 IAC 8-3 concerning public water supply construction permits.
  - (D) 327 IAC 8-3.4 concerning public water system wells.
  - (E) 327 IAC 8-4.1 concerning wellhead protection.
  - (F) 327 IAC 8-10 concerning cross connection control.
- (5) A method to provide for the operation, maintenance, inspection, testing, repair, replacement, and associated record keeping for the following, according to the American Water Works Association Standards, Section A100 through Section F100 (February 1998 Edition)\* and the Recommended Standards for Water Works, Great Lakes—Upper Mississippi River Board of State Public Health and Environmental Managers (1997 Edition)\*\*:
  - (A) Source of supply facilities.
  - (B) Pumping facilities.
  - (C) Water meters.
  - (D) All components of the treatment process.
  - (E) Storage tanks, including the following:

- (i) Cleaning.
    - (ii) Painting.
  - (F) Water mains, including the following:
    - (i) Flushing.
    - (ii) Exercising valves.
  - (G) Approved cross connection control devices.
  - (6) Details of an infrastructure replacement plan that include the following:
    - (A) A schedule of equipment replacement.
    - (B) Estimated life expectancy of equipment.
    - (C) Expected replacement date.
    - (D) Estimated cost of replacement.
  - (7) Details for providing a certified operator in charge of the public water supply system and complying with applicable state and federal requirements concerning certified operators, including 327 IAC 8-12.
- (b) The technical capacity information required by subsection (a) shall:
- (1) be prepared by:
    - (A) a professional engineer, as described under IC 25-31, who is registered in Indiana;
    - (B) a licensed professional geologist, as described in 305 IAC 1-2-5, who is registered in Indiana; or
    - (C) a qualified person under the direct supervision of a professional engineer or licensed professional geologist registered in Indiana;
 as applicable according to the information required; and
  - (2) demonstrate that the proposed public water supply system shall produce drinking water that meets public water supply requirements of this article.

**\*This document is incorporated by reference. Notwithstanding language to the contrary in the primarily incorporated documents, the versions of all secondarily incorporated documents, which are those documents referred to in the primarily incorporated documents, shall be the versions in effect on the date of final adoption of the primarily incorporated document. Copies of this publication may be obtained from the American Water Works Association, 6666 West Quincy Avenue, Denver, Colorado 80235 or from the Indiana Department of Environmental Management, Office of Water Management, Indiana Government Center-North, 100 North Senate Avenue, Room 1255, Indianapolis, Indiana 46206.**

**\*\*This document is incorporated by reference. Notwithstanding language to the contrary in the primarily incorporated documents, the versions of all secondarily incorporated documents, which are those documents referred to in the primarily incorporated documents, shall be the versions in effect on the date of final adoption of the primarily incorporated document. Copies of this publication may be obtained from Health Education Services, P.O. Box 7126, Albany, New York 12224 or from the Indiana Department of Environmental Management, Office of Water Management, Indiana Government Center-North, 100 North Senate Avenue, Room 1255, Indianapolis, Indiana 46206. (*Water Pollution Control Board; 327 IAC 8-3.6-4; filed Aug 10, 1999, 8:54 a.m.; 22 IR 3679*)**

**327 IAC 8-3.6-5 Financial capacity of a new public water supply system**  
**Authority: IC 13-13-5; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-21-3**  
**Affected: IC 13-18-16**

**Sec. 5. (a) A new community public water supply system shall provide the following financial capacity information as part of the water system management plan:**

- (1) A five (5) year budget plan that includes the following:
  - (A) A pro forma income statement, balance sheet, statement of retained earnings, and statement of cash flows for each of the next five (5) years.
  - (B) An accounting of operating revenues for the following:
    - (i) Metered water revenues.
    - (ii) Unmetered water revenues.
    - (iii) Fire protection revenues.
    - (iv) Sales for resale.
    - (v) Other water revenues.
  - (C) An accounting of operating expenses for the following:

- (i) Operation and maintenance, including the following:
    - (AA) Operating expenses by category.
    - (BB) The greater of depreciation or extensions and replacements.
    - (CC) Taxes other than income.
    - (DD) Operating income before income taxes.
    - (EE) Current federal income taxes.
    - (FF) Current state income taxes.
    - (GG) Deferred income taxes.
    - (HH) Income tax credits.
    - (II) Other charges and credits.
    - (JJ) Net operating income.
    - (KK) Debt service and debt service reserve, including an anticipated amortization schedule on any proposed borrowings.
  - (ii) Administration expenses, including the following:
    - (AA) Salaries.
    - (BB) Benefits.
    - (CC) Supplies.
    - (DD) Insurance.
    - (EE) Legal fees.
    - (FF) Engineering fees, studies, and plans.
    - (GG) Reporting requirements.
    - (HH) Accounting services.
    - (II) Costs to comply with other applicable state or local requirements.
- (2) A twenty (20) year financial plan, in five (5) year increments, including the following:
- (A) Projected growth and a description of the ability to meet expected growth.
  - (B) An infrastructure replacement plan, required by section 4(a)(6) of this rule, including funding of the plan.
  - (C) An account for funding necessary repairs to the proposed public water system to meet the drinking water standards and projected growth.

(b) A new nontransient noncommunity public water supply system shall submit a five (5) year budget plan that describes the public water supply system's source of revenue and ability to meet the costs associated with the public water supply system portion of the business, including the following:

- (1) A summary of the revenues directed to the construction, operation, maintenance, and administration of the new nontransient noncommunity public water supply system.
- (2) A detailed listing of the expenses associated with the construction, operation, maintenance, and administration of the new nontransient noncommunity public water supply system.

(c) The financial capacity information required by subsections (a) and (b) shall be prepared by a certified public accountant who is registered in Indiana. (*Water Pollution Control Board; 327 IAC 8-3.6-5; filed Aug 10, 1999, 8:54 a.m.; 22 IR 3681*)

### **327 IAC 8-3.6-6 Managerial capacity of a new public water supply system**

Authority: IC 13-13-5; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-21-3

Affected: IC 13-18-16; IC 25-31

**Sec. 6. A water system management plan shall provide the following managerial capacity information:**

- (1) A description of the organization, the purpose, the corporate status, and the nature of the entity, and its ownership that includes the following:
  - (A) Name of the owner of the public water supply system.
  - (B) Name of the following, where applicable:
    - (i) Chief executive officer.
    - (ii) Director.
    - (iii) Agency head.
    - (iv) Members of the board of directors.
  - (C) An organizational structure chart showing the following:
    - (i) The chain of command.
    - (ii) Other aspects of management related to operation.
  - (D) An assessment of the job responsibilities and estimated time commitment in hours for each management job position.

**(2) A description of the ability to respond to an emergency situation that includes the following:**

**(A) Identification of:**

**(i) risks, whether they be:**

**(AA) known;**

**(BB) potential;**

**(CC) natural in origin; or**

**(DD) human caused;**

**(ii) staff members, by job position, that are responsible to act in response to risks; and**

**(iii) the risk response actions to be taken by staff.**

**(B) Notification procedures to be implemented during an emergency.**

**(C) A means to obtain an alternate water supply.**

**(D) The existence and limits of casualty insurance.**

**(3) An assessment of consolidation with or interconnection to another public water supply system, including the following:**

**(A) A narrative describing:**

**(i) the accessibility to another public water supply system;**

**(ii) efforts by a proposed public water supply system to notify other operating public water supply systems, within a ten (10) mile radius, that there is a proposal to develop a new public water supply system;**

**(iii) the response to notification required by item (ii); and**

**(iv) whether an agreement can be obtained for consolidation with or interconnection to an operating public water supply system within a ten (10) mile radius.**

**(B) A cost benefit analysis comparing:**

**(i) development of a new public water supply system;**

**(ii) consolidation with an existing public water supply system; and**

**(iii) interconnection with an existing public water supply system.**

**(C) The information required by this subdivision shall be prepared by a professional engineer, as described under IC 25-31, who is registered in Indiana, or by a qualified person under the direct supervision of a professional engineer registered in Indiana.**

**(4) An assessment of authority and responsibility, including the following:**

**(A) A narrative describing proposed policies, ordinances, rules, or regulations, that, at a minimum, define the following:**

**(i) Conditions required for providing water service for existing or new connections.**

**(ii) Responsibilities of the public water supply system to the consumer.**

**(iii) Responsibilities of the consumer to the public water supply system.**

**(B) A summary of existing local, state, or federal requirements pertaining to and explaining the effects upon the proposed public water supply system.**

**(5) A description of the following:**

**(A) The minimum required qualifications for the following staff:**

**(i) Owners.**

**(ii) Directors.**

**(iii) Managers.**

**(iv) Operators.**

**(v) Other responsible persons.**

**(B) A proposal for continuing training.**

*(Water Pollution Control Board; 327 IAC 8-3.6-6; filed Aug 10, 1999, 8:54 a.m.; 22 IR 3681)*

### **327 IAC 8-3.6-7 Certification of capacity**

**Authority: IC 13-13-5; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-21-3**

**Affected: IC 13-18-16**

**Sec. 7. (a) The commissioner shall do the following:**

**(1) Review a water system management plan that contains the following:**

**(A) The information required by this rule.**

**(B) A statement signed by the owner or person in responsible charge of the public water supply system attesting to having reviewed and to understanding the contents of the water system management plan.**

**(2) Deny the water system management plan and return it to the applicant if the plan fails to demonstrate the technical, financial, or managerial capacity of the proposed**

public water supply system.

(3) Issue a written determination that the public water supply system has met the technical, financial, and managerial capacity requirements of this rule.

(b) The commissioner may contact the applicant, by letter, to request omitted or supplemental information that is related to the water system management plan of the public water supply system. (*Water Pollution Control Board; 327 IAC 8-3.6-7; filed Aug 10, 1999, 8:54 a.m.; 22 IR 3682*)